

**LANCE R. LEFLEUR**  
DIRECTOR



**KAY IVEY**  
GOVERNOR

Alabama Department of Environmental Management  
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

May 30, 2017

Mr. Kevin Minoli  
U.S. EPA, Office of General Counsel  
1200 Pennsylvania Avenue, NW (MC2310A)  
Washington, DC 20460

Dear Mr. Minoli: *Kevin*

Thank you, Lilian Dorka, Brittney Martinez, and Kurt Temple for taking the occasion of the Alabama Department of Environmental Management (ADEM) hosting of the EPA Region 4 Environmental Justice Conference to meet with us. I would like to follow up on several points addressed in our meeting. I would also like to know if after reviewing the documents provided to Ms. Dorka you have any questions or comments.

In the meeting our conversation focused on ADEM's non-discrimination program which is also the only remaining issue in the Title VI complaint filed against ADEM in the course of ADEM's consideration of a landfill permit modification for the City of Dothan landfill. Since ADEM never completed an administrative action, there was no event on which a complaint could be filed and that portion was dismissed. ADEM has expressed its firm contention that the adequacy of ADEM's non-discrimination program (adequacy claim) should not be an element of the Dothan Title VI complaint for numerous reasons.

The adequacy claim was not included in the Dothan complaint filed on February 3, 2016, but rather was added by ECRCO. Initially, ADEM was notified verbally it was being added without stating the basis for the addition. Later in a letter dated February 24, 2016, the addition of the adequacy element was referenced in a footnote as "Note that this issue was originally raised by David Ludder in August 2013." In our recent meeting it was stated the basis was in fact an August 22, 2013 letter from David Ludder to EPA OCR which was not previously made available to ADEM. We noted that a letter from 2013 predated the Dothan Title VI complaint, as well as the date of the alleged ADEM administrative action of January 8, 2016. Further, it was noted that ECRCO took it upon itself to add the adequacy claim despite a failure of the adequacy claim to meet the requirements of 40 CFR Part 7.

Ms. Dorka stated that the addition of the adequacy claim was warranted because it "claimed an ongoing violation of Title VI." The Ludder letter makes no reference to Dothan or any other pending or final administrative action by ADEM. I would also note that David Ludder is not a resident of Alabama, lives more than 90 miles from the landfill, and did not purport to represent any of the Dothan claimants or

**Birmingham Branch**  
110 Vulcan Road  
Birmingham, AL 35209-4702  
(205) 942-6168  
(205) 941-1603 (FAX)

**Decatur Branch**  
2715 Sandlin Road, S.W.  
Decatur, AL 35603-1333  
(256) 353-1713  
(256) 340-9359 (FAX)



**Mobile Branch**  
2204 Perimeter Road  
Mobile, AL 36615-1131  
(251) 450-3400  
(251) 479-2593 (FAX)

**Mobile-Coastal**  
3664 Dauphin Street, Suite B  
Mobile, AL 36608  
(251) 304-1176  
(251) 304-1189 (FAX)

Kevin Minoli  
5/30/2017  
Page 2 of 2

any other claimant other than himself. The explanation for ECRCO unilaterally tacking the adequacy claim on to the Dothan complaint is not convincing.

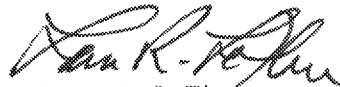
The foregoing issues aside, when asked directly if ADEM's non-discrimination program failed to meet any Title VI requirements ECRCO did not identify any failure. When we noted ADEM had been audited by EPA OCR in 2004 and was found ".... to be in compliance with the non-discriminatory regulations found at 40 C.F.R. Parts 5 and 7,..." the response was that the audit was flawed. The new and unexplained statement that the 2004 audit was flawed is not convincing. Additionally, not only have the Civil Rights Act of 1964 and Title VI not been amended since prior to the 2004 audit, but ADEM has made numerous improvements to its program which have been transmitted to EPA ECRCO as a result of voluminous document requests which further affirms the adequacy of ADEM's program.

We have reviewed in detail the document provided by Ms. Dorka which she indicated sets out some examples of settlement items agreed to by other parties to resolve Title VI issues. As evidenced in documents ADEM previously submitted pursuant to document requests by EPA ECRCO, it appears that ADEM's program incorporates virtually all of the elements in the examples shown. As was the case when the EPA 2004 Title VI audit found ADEM's non-discrimination program to be in compliance with Title VI, the Department welcomes these latest recommendations and will seek to implement those not already implemented which are applicable to ADEM; however, we have been provided no information that could support any finding other than that ADEM's non-discrimination program continues to meet the requirements of Title VI.

By way of an update, I'm pleased to report that landfill siting bill included in the documents provided to Ms. Dorka, which provides for enhanced public participation and court review of the local approval of landfills, was passed by both houses of the legislature and signed into law.

Again, thank you and your team for visiting with us. We look forward to a timely resolution of the outstanding Title VI issues involving ADEM.

Sincerely,



Lance R. LeFleur  
Director

LRL/SSS/ghe